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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

JUN 11 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)	MM DOCKET NO. 93-75
)	
TRINITY BROADCASTING OF FLORIDA, INC.)	File No. BRCT-911001LY
)	
For Renewal of License of)	
Station WHFT(TV) on Channel 45,)	
Miami, Florida)	
)	
and)	
)	
GLENDALE BROADCASTING COMPANY)	File No. BPCT-911227KE
)	
For a Construction Permit for a)	
New Commercial TV Station to)	
operate on Channel 45, Miami,)	
Florida)	

To: Honorable Joseph Chachkin
Administrative Law Judge

MOTION TO STRIKE

Glendale Broadcasting Company, (Glendale), by its attorneys, now moves to strike Paragraphs 37 through 39 of the "Mass Media Bureau's Consolidated Comments on Motion to Dismiss and Contingent Motion to Enlarge Issues" filed on May 7, 1993 to the extent the Bureau seeks the specification of a financial qualifications issue against Glendale.

The Mass Media Bureau's pleading purports to be comments on the motion to dismiss and motion to enlarge issues filed against Glendale by Trinity Broadcasting of Florida, Inc. (TBF) on May 13, 1993. TBF's motion sought a false financial certification issue against Glendale, but it did not seek

Bureau opposes the specification of a false financial certification issue, it requests the specification of a financial qualifications issue that TBF did not request.

The Bureau's request for a financial qualifications issue is improper and must be stricken. In Milam & Lansman, 4 RR 2d 463, 466 (1964), the Review Board explained why such requests cannot be considered (emphasis in original):

It is the clear intent of §1.229 of the Rules that requests for enlargement of issues should be made in original pleadings and should not be contained in responsive pleadings. Saul M. Miller, FCC 62R-122, 24 RR 550 (1962); Charles County Broadcasting Co., Inc., FCC 63R-76, 24 RR 1153 (1963); and Springfield Telecasting Co., FCC 64R-471, released October 5, 1964. Strict compliance with these procedural requirements is essential to promote the efficiency of our adjudicatory functions and to insure fair consideration of properly filed pleadings... It is apparent that the introduction of new allegations and/or issues in responsive pleadings deprives the opposition of opportunity to answer such new matters and also effectively precludes fair consideration of the Board of matters that might be relevant to the request.

The Bureau has not even attempted to justify its unauthorized actions.¹

¹ Moreover, the Bureau fails to note that Glendale amended its Miami application as of right on March 26, 1992 to delete its reliance on George Gardner's personal funds and to rely upon a bank letter. See Attachment 3 to Glendale's June 7, 1992 "Opposition to Contingent Motion to Enlarge Issues Against Glendale Broadcasting Company." When an applicant amends its applications of right, any deficiency which was caused by the amendment is moot. Great Lakes Broadcasting, Inc. 6 FCC Rcd 4331, 4332, 69 RR 2d 946, 948 (1991) at ¶11. In any event, Glendale showed in its opposition that no deficiency had been shown in its original proposal.

Accordingly, Glendale asks the Presiding Judge to strike Paragraphs 37 through 39 of the "Mass Media Bureau's Consolidated Comments on Motion to Dismiss and Contingent Motion to Enlarge Issues" to the extent that section seeks the specification of a financial qualifications issue against Glendale.

Respectfully submitted,

GLENDALE BROADCASTING COMPANY

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Date: June 11, 1993

CERTIFICATE OF SERVICE

I, Susie Cruz, do hereby certify that on the 10th day of June 1993, a copy of the foregoing "Motion to Strike" was sent first-class mail, postage prepaid to the following:

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